

ESTTA Tracking number: **ESTTA687548**Filing date: **08/04/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Anki Inc.		
Entity	Corporation	Citizenship	Delaware
Address	55 Second Street San Francisco, CA 94105 UNITED STATES		

Attorney information	Gregg A. Paradise Lerner, David, Littenberg, Krumholz & Mentlik, LLP 600 South Avenue West Westfield, NJ 07090 UNITED STATES gparadise@ldlkm.com, litigation@ldlkm.com Phone: 9085186323
----------------------	---

Registrations Subject to Cancellation

Registration No	4629562	Registration date	10/28/2014
Registrant	MOLNER ANDRES, FRANCISCO JAVIER C/Xativa 15, pta 11 A Valencia, 46002 SPAIN		

Goods/Services Subject to Cancellation

Class 028. First Use: 2014/01/31 First Use In Commerce: 2014/06/30

All goods and services in the class are cancelled, namely: Action figures; Action-type target games; Arcade games; Baby multiple activity toys; Bath toys; Board games; Bubble making wand and solution sets; Card games; Cat toys; Chess pieces; Christmas tree ornaments and decorations; Coin-operated amusement machines; Construction toys; Crib toys; Customized dolls having a face in the form of a particular adolescent who has unexpectedly or tragically died; Gymnastic apparatus; Hand-held electronic games adapted for use with television receivers only; Home video game machines; Mechanical toys; Parlour games; Play yards in the nature of outdoor play structures; Plush toys; Puzzles; Ride-on toys; Role playing games; Squeezable squeaking toys; Stand alone video game machines; Target games; Toy boxes; Toy building blocks; Toy construction blocks; Toy model vehicles and related accessories sold as units; Toy pistols; Toy robots; Toyswords; Toy trains and parts and accessories therefor; Toy vehicles; Video game consoles for use with an external display screen or monitor; Video game interactive remote control units; Video game machines for use with televisions

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l. Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Other	No bona fide intent to use mark in connection with all listed goods upon filing.		
Registration No	4633575	Registration date	11/04/2014

Registrant	MOLNER ANDRES, FRANCISCO JAVIER C/Xativa 15, pta 11 A Valencia, 46002 SPAIN
------------	--

Goods/Services Subject to Cancellation

Class 028. First Use: 2011/09/30 First Use In Commerce: 2013/06/30

All goods and services in the class are cancelled, namely: Action figures; Action-type target games; Arcade games; Baby multiple activity toys; Bath toys; Board games; Bubble making wand and solution sets; Card games; Cat toys; Chess pieces; Christmas tree ornaments and decorations; Coin-operated amusement machines; Construction toys; Crib toys; Customized dolls having a face in the form of a particular adolescent who has unexpectedly or tragically died; Gymnastic apparatus; Hand-held electronic games adapted for use with television receivers only; Home video game machines; Mechanical toys; Musical toys; Parlour games; Play yards in the nature of outdoor play structures; Plush toys; Puzzles; Ride-on toys; Role playing games; Squeezable squeaking toys; Stand alone video game machines; Target games; Toy boxes; Toy building blocks; Toy construction blocks; Toy model vehicles and related accessories sold as units; Toy pistols; Toy robots; Toy swords; Toy trains and parts and accessories therefor; Toy vehicles; Video game consoles for use with an external display screen or monitor; Video game interactive remote control units; Video game machines for use with televisions

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l. Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	No bona fide intent to use mark in connection with all listed goods upon filing.

Attachments	4155727_1.pdf(18175 bytes)
-------------	-----------------------------

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Gregg A. Paradise/
Name	Gregg A. Paradise
Date	08/04/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ANKI INC.,	:	
	:	Registration Nos. 4,629,562
Petitioner,	:	4,633,575
	:	
v.	:	Marks: HIGH SKULL HS
	:	MEXICAN SKULLS
FRANCISCO JAVIER MOLNER ANDRES,	:	
	:	Cancellation No. _____
Respondent.	:	
_____	:	
	:	X

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

CONSOLIDATED PETITION FOR CANCELLATION

Petitioner Anki, Inc. ("Petitioner"), requests cancellation of Class 28 of the above-identified registrations. The basis for cancellation is set forth below.

1. Petitioner is a Delaware corporation with a business address of 55 Second Street, San Francisco, California 94105.

2. Upon information and belief, Registrant Francisco Javier Molner Andres ("Respondent"), is an individual with an address of C/Xativa 15, pta 11A, Valencia, Spain 46002.

3. Upon information and belief, Respondent is the owner of U.S. Trademark Registration Nos. 4,629,562 and 4,633,575 (the "Registrations") for the marks HIGH SKULL HS and MEXICAN SKULLS, respectively.

4. Petitioner is the owner of Trademark Application No. 86/421,132 (the “Application”) for the mark SKULL. Petitioner’s Application is for “Robots for personal, educational, and hobby use in the nature of miniature robotic cars” in Class 9, and was filed on October 10, 2014.

5. Respondent’s Registrations are for the use of the marks in connection with a wide variety of goods, including “Toy robots” listed in Class 28.

6. An Office Action in connection with Petitioner’s Application is pending and was mailed on February 6, 2015. That Office Action refuses registration under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), in view of Respondent’s Registrations.

7. Upon information and belief, Respondent is not currently using, and has not at any time used, the marks identified in Respondent’s Registrations in connection with at least “Toy robots” listed in Class 28 in Respondent’s Registrations in the United States.

COUNT I
(Fraud)

8. Petitioner repeats and incorporates the preceding allegations in paragraphs 1-7 as if each were fully set forth herein.

9. Upon information and belief, at no time did Respondent ever use the HIGH SKULL HS and MEXICAN SKULLS marks in connection with at least “Toy robots” listed in Class 28 in Respondent’s Registrations.

10. On September 4, 2014 and September 11, 2014, Respondent filed Statements of Use in which he alleged that he was presently using the HIGH SKULL HS and MEXICAN SKULLS marks “in commerce or in connection with all goods and/or services listed in the application or Notice of Allowance.”

11. Upon information and belief, despite knowing that he was not actually using the HIGH SKULL HS and MEXICAN SKULLS marks in commerce in connection with at least toy robots in the United States, Respondent filed the Statements of Use.

12. Upon information and belief, Respondent knowingly made false, material misrepresentations with the intent to deceive the Trademark Office when he filed the Statements of Use.

13. Based upon the material misrepresentations to the Trademark Office through the filing of the Statements of Use that Respondent was using the HIGH SKULL HS and MEXICAN SKULLS marks in connection with the goods and services listed in the Registrations, Petitioner asserts that Class 28 of Respondent's Registrations should be cancelled due to fraud pursuant to 15 U.S.C. § 1064(3).

COUNT II
(No Bona Fide Intent to Use)

14. Petitioner repeats and incorporates the preceding allegations in paragraphs 1-13 as if each were fully set forth herein.

15. Upon information and belief, Respondent at the time he filed his applications did not have a *bona fide* intent to use the HIGH SKULL HS and MEXICAN SKULLS marks on at least some of the goods identified in Class 28 in the Registrations, including, but not limited to, "Toy robots."

16. As Respondent did not at the time of filing his application have a *bona fide* intent to use the HIGH SKULL HS and MEXICAN SKULLS marks in connection with all the goods listed in Class 28 in the Registrations, the Registrations are void *ab initio* pursuant to 15 U.S.C. § 1126 (Trademark Act Section 44(e)).

17. In view of the Trademark Attorney's refusal to register Petitioner's mark in Petitioner's Application pursuant to 15 U.S.C. § 1052(d), Petitioner will be damaged by the continued existence of Class 28 of Trademark Registration Nos. 4,629,562 and 4,633,575.

18. Please charge the fee of \$600 for a petition to cancel two registrations in one class each to 12-1095. The undersigned is authorized to make charges to said deposit account.

19. WHEREFORE, Petitioner prays that Class 28 of each of Registration Nos. 4,629,562 and 4,633,575 are cancelled.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
Attorneys for Petitioner Anki, Inc.
600 South Avenue West
Westfield, NJ 07090
Tel.: (908) 654-5000
Fax: (908) 654-7866
E-mail: gparadise@lernerdavid.com
litigation@lernerdavid.com

Dated: August 3, 2015

By: /Gregg A. Paradise/
Gregg A. Paradise

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Cancellation was served upon Respondent's authorized domestic representative on August 3, 2015, addressed as follows:

VIA FIRST-CLASS MAIL AND E-MAIL

Arturo Perez-Guerrero
PO Box 9024163
San Juan, Puerto Rico
Phone: 787-722-3446
arturo@perezguerrero.com

/Gregg A. Paradise/
Gregg A. Paradise